

REC'D  
2024 SEP 26 PM 1:00  
WILLIAMSON  
CLERK  
~~BY: [Signature]~~

1 AARON D. FORD  
Attorney General  
2 LAENA ST-JULES (Bar No. 15156)  
Senior Deputy Attorney General  
3 DEVIN A. OLIVER (Bar No. 16773C)  
Deputy Attorney General  
4 State of Nevada  
Office of the Attorney General  
5 100 North Carson Street  
Carson City, Nevada 89701-4717  
6 T: (775) 684-1265  
(775) 684-1234  
7 E: [lstjules@ag.nv.gov](mailto:lstjules@ag.nv.gov)  
[doliver@ag.nv.gov](mailto:doliver@ag.nv.gov)

8 *Attorneys for Proposed Intervenor-Respondent*  
9 *Secretary of State*

10 **FIRST JUDICIAL DISTRICT COURT OF NEVADA**  
11 **CARSON CITY**

13 CITIZEN OUTREACH FOUNDATION,  
14 *et al.*,  
15 Plaintiffs,  
16 vs.  
17 SCOTT HOEN, *et al.*,  
18 Defendants.

Case No. 24 EW 00020 1B  
Dept. No. I

19 **MOTION TO INTERVENE AS RESPONDENT**  
20 **CERTIFICATE OF COUNSEL PURSUANT TO FJDCR 3.7(b)**

21 Pursuant to FJDCR 3.7(b), counsel for Proposed Intervenor-Respondent Francisco  
22 V. Aguilar, in his official capacity as Nevada Secretary of State (“Secretary” or “Secretary  
23 Aguilar”), Laena St-Jules, hereby certifies that she contacted counsel for all parties  
24 regarding this Motion to Intervene as Respondent (“Motion”). On September 24, 2024,  
25 Benjamin Johnson, counsel for Respondent Scott Hoen, in his official capacity as the Carson  
26 City Clerk-Recorder, confirmed to St-Jules by video conference that there was no objection  
27 to the Secretary’s proposed intervention. On September 25, 2024, Katherine F. Parks,  
28 counsel for Jim Hindle, in his official capacity as the Storey County Clerk, confirmed by

1 email to St-Jules that there was no objection to the Secretary's proposed intervention. On  
2 September 24, 2025 at 10:20 am, St-Jules emailed David O'Mara, counsel for Petitioners  
3 Citizen Outreach Foundation and Charles Muth, advising that the Secretary intended to  
4 move to intervene, and requesting to confer on whether the Secretary's intervention could  
5 be resolved by agreement. No witnesses were identified, and no documents or other  
6 evidence were exchanged. As of the signing of this Motion, O'Mara has not responded to  
7 St-Jules. In light of Petitioners' anticipated motion for preliminary injunction, previewed  
8 to counsel for Respondents on September 25, 2024 after St-Jules' email to O'Mara, and  
9 O'Mara's non-responsiveness to St-Jules, St-Jules certifies that she has complied in good  
10 faith with FJDCR 3.7(b).

11 \* \* \*

12 The Secretary, by and through counsel, hereby moves to intervene as a respondent  
13 in the above-titled action under NRCP 24. This Motion is based upon the following  
14 Memorandum of Points and Authorities, the attachments hereto, and the papers and  
15 pleadings on file.

## 16 MEMORANDUM OF POINTS AND AUTHORITIES

### 17 I. INTRODUCTION

18 This petition for a writ of mandamus (the "Petition") centers around Respondents'  
19 alleged actions *in direct relation to guidance issued by Secretary Aguilar* on written  
20 challenges to a voter's eligibility under NRS 293.535. *See* Pet. ¶¶ 3–13, 28–29, 34–35, 38,  
21 41, 43–45, 48. What's more, Petitioners seek relief that (i) fundamentally contradicts the  
22 Secretary's guidance on the "personal knowledge" requirement for such third-party  
23 challenges and (ii) risks violating state and federal election laws by improperly purging  
24 voters. *See id.* ¶¶ 36–37, 42, 47–49; *id.* Prayer for Relief. Yet despite targeting guidance  
25 by the Secretary, Nevada's "Chief Officer of Elections," NRS 293.124, 293.675, Petitioners  
26 do not name the Secretary as a respondent. It is the Secretary, after all, who is ultimately  
27 "responsible for maintaining Nevada's voter rolls and to ensure [sic] the integrity of  
28 Nevada's elections," Pet. ¶ 16, not just Respondents. Given the Petition's palpable threats

1 to the Secretary’s interests in consistently administering Nevada’s elections—interests the  
2 Secretary himself is best positioned to protect—intervention is necessary as a matter of  
3 right under NRCP 24(a)(2). Alternatively, permissive intervention is warranted under  
4 NRCP 24(b)(2) because the Petition turns on election laws the Secretary must administer.<sup>1</sup>

## 5 II. BACKGROUND

### 6 A. The Secretary’s Executive Role as Nevada’s Chief Elections Officer

7 The Secretary of State serves as “Chief Officer of Elections for this State” and “is  
8 responsible for the execution and enforcement of the provisions of title 24 of NRS and all  
9 other provisions of state and federal law relating to elections in this State.” NRS 293.124.  
10 He is therefore “mandated to, among other things, uphold Nevada’s Constitution, execute  
11 and enforce Nevada’s election statutes, and administer Nevada’s election process.” *Miller*  
12 *v. Burk*, 124 Nev. 579, 588, 188 P.3d 1112, 1118 (2008) (citing Nev. Const., art. 15, § 2;  
13 NRS 293.124; *Heller v. Legis. of State of Nev.*, 120 Nev. 456, 461, 93 P.3d 746, 750 (2004)  
14 (per curiam)). The Secretary “must obtain and maintain consistency in the application,  
15 operation and interpretation of election laws.” *Heller*, 120 Nev. at 461, 93 P.3d at 750  
16 (citing NRS 293.247). Under Nevada law, the Secretary must faithfully and consistently  
17 enforce election laws across all Nevada counties. *See id.*

18 Relevant here, voter roll procedures squarely fall within the Secretary’s executive  
19 duties; they also require the Secretary’s oversight of county clerks across the State.  
20 The Secretary is responsible for coordination of the State’s responsibilities under the  
21 National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. § 20509, which include voter  
22 roll maintenance, *id.* § 20507. Further, NRS 293.675 requires that the Secretary “establish  
23 and maintain a centralized, top-down database that collects and stores information related  
24 to . . . the registration of electors from all the counties in [Nevada],” among other  
25 requirements. NRS 293.675(1). County and city clerks must electronically enter voter  
26

---

27 <sup>1</sup> If the Court grants the Secretary’s Motion, the Secretary intends to file a response to the Petition  
28 by October 23, 2024, consistent with the Court’s Order to Respond. Because NRCP 24(c) requires a proposed  
intervenor to attach a proposed “pleading” to a motion to intervene, the Secretary has attached a proposed  
answer as Exhibit 1 to his Motion.

1 registration information into the Secretary's central database and "[p]rovide [him] with  
2 information concerning the voter registration of the county . . . and other reasonable  
3 information requested by [him] in the form required by [him] to establish or maintain the  
4 statewide voter registration list." NRS 293.675(4); *see also* NAC 293.412. Then, the  
5 Secretary uses voter registration information collected from each county or city "to create  
6 the official statewide voter registration list . . . in consultation with each county and city  
7 clerk." NRS 293.675(2).

8 **B. Voter Roll Maintenance and Third-Party Challenges to Voter**  
9 **Eligibility under NRS 293.535.**

10 The Secretary administers overlapping state and federal statutes that govern how  
11 county clerks handle external challenges to a voter's registration and, more broadly,  
12 maintain their voter registration lists. Together, these statutes require procedural  
13 coordination and authorization among various local and state officials.

14 Under NRS 293.535, an individual may file a "written challenge" with a county clerk,  
15 alleging that a registered voter is ineligible to vote. Relevant here, the challenger may file  
16 an affidavit stating that the challenged registrant has moved outside the county where he  
17 or she is registered and has established a new residence elsewhere with the intentions of  
18 remaining there indefinitely and abandoning their previous residence. NRS 293.535(1).  
19 However, the challenger must declare they have "personal knowledge" of the facts alleged  
20 in their affidavit. *Id.* It is Secretary Aguilar's interpretation of "personal knowledge" under  
21 NRS 293.535 that anchors Petitioners' claims.<sup>2</sup>

22 ///

23 \_\_\_\_\_  
24 <sup>2</sup> While "personal knowledge" is not explicitly defined under NRS 293.535, the Secretary stated in his  
25 August 2024 Memo to county clerks that he interprets the term to mean the same as under NRS 293.547.  
26 *See* Pet., Ex. 1 at 1–2; *see also* NAC 293.416(3) (defining "personal knowledge" as used in NRS 293.547 to  
27 mean "firsthand knowledge through experience or observation of the facts upon each ground that the  
28 challenge is based"); Personal Knowledge, Black's Law Dictionary (12th ed. 2024) (defined as "[k]nowledge  
gained through firsthand observation or experience," whereas secondhand knowledge is "based on what  
someone else has said"). As such, in the Secretary's "opinion," individuals who have submitted challenges  
based on knowledge "obtained from their review of data from databases or compilations of information" (*e.g.*,  
USPS National Change of Address database) "do not meet the requirement of 'personal knowledge' of facts  
supporting the challenge required by NRS 293.535 and 293.547." Pet., Ex. 1 at 3.

1 If such a written challenge alleges a registrant's change of residence, the county clerk  
2 must notify the challenged registrant "in the manner set forth in NRS 293.530," enclose a  
3 copy of the challenger's affidavit, and wait for that registrant to either respond or fail to  
4 respond or appear to vote during the required time. NRS 293.535(2).

5 But, pertinent here, a county clerk's duty to notify a challenged registrant (or  
6 otherwise act on Petitioners' written challenges) is conditioned on at least (1) the contents  
7 of the challenge satisfying the requirements of NRS 293.535 and (2) the challenger's  
8 possession of "personal knowledge" of the alleged facts.

9 **C. Petitioners' Attempts to Remove Voters from Voter Rolls**

10 Petitioners allege having sent written challenges pursuant to NRS 293.535 "to  
11 almost every Nevada County Registrar/Clerk, including Carson City" on July 29, 2024.  
12 Pet. ¶ 1. Petitioners further allege having sent 480 affidavits to Respondent Hoen and 22  
13 to Respondent Hindle. *Id.* ¶¶ 31–32. The Secretary disagrees that the voter registration  
14 challenges at issue here comply with the strictures of NRS 293.535, and accordingly agrees  
15 with Respondents' decision not to process the challenges. The Secretary has provided  
16 guidance to county clerks in an August 27, 2024 memorandum (the "August 2024 Memo"  
17 or "Memo") regarding the "personal knowledge" requirement for voter registration  
18 challenges pursuant to NRS 293.535 and 293.547. Pet. Ex. 1. The guidance was a  
19 government document to local election officials concerning their statutory duties. *See id.*  
20 It was in no way secret or private, *see* Pet. ¶¶ 3, 5, as it is subject to public records requests,  
21 *see* NRS 239.0107, but there was also no obligation to provide it to Petitioners, who obtained  
22 a copy in any event.

23 Dissatisfied with Respondents' response to the challenges, Petitioners filed the  
24 instant action. Although fashioned on its face as a petition for a writ of mandamus,  
25 Petitioners bring three counts (mandamus, declaratory, and injunctive relief) based on  
26 Respondents' alleged failure to "perform their duties" by "process[ing] the challenges" and  
27 "mailing the notice [pursuant to NRS 293.535(1)] to the challenged registrar at least

28 ///

1 thirty-three (33) days before the [2024 general] election.” *Id.* ¶¶ 16, 28, 36, 37, 42, 47; *id.*  
2 Prayer for Relief.

## 3 II. STANDARD OF LAW

4 NRCP 24 governs intervention in state-court actions, including in mandamus  
5 proceedings.<sup>3</sup> A movant may intervene either as of right under NRCP 24(a) or permissively  
6 under NRCP 24(b). Textually, NRCP 24 and Federal Rule of Civil Procedure 24 are  
7 virtually identical and thus “equivalent.”<sup>4</sup> “[B]ecause the Nevada Rules of Civil Procedure  
8 are based in large part upon their federal counterparts,” this Court may draw upon federal  
9 cases interpreting the equivalent federal rule as “strong persuasive authority” in applying  
10 NRCP 24. *Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002)  
11 (per curiam) (quoting *Las Vegas Novelty v. Fernandez*, 106 Nev. 113, 119, 787 P.2d 772, 776  
12 (1990)); see *Lawler v. Ginocchio*, 94 Nev. 623, 626, 584 P.2d 667, 668–69 (1978) (per curiam).

13 NRCP 24(a)(2) governs intervention as a matter of right. To intervene as of right,  
14 “an applicant must meet four requirements: (1) that it has a sufficient interest in the  
15 litigation’s subject matter, (2) that it could suffer an impairment of its ability to protect  
16 that interest if it does not intervene, (3) that its interest is not adequately represented by  
17 existing parties, and (4) that its application is timely.” *Am. Home Assurance Co. v. Eighth*  
18 *Jud. Dist. Ct.*, 122 Nev. 1229, 1238, 147 P.3d 1120, 1126 (2006).

19 Although “[d]etermining whether an applicant has met these four requirements is  
20 within the district court’s discretion,” *id.*, courts “construe the Rule ‘broadly in favor of  
21 proposed intervenors’ . . . because ‘a liberal policy in favor of intervention serves both  
22 efficient resolution of issues and broadened access to the courts,’” *Wilderness Soc’y v. U.S.*  
23 *Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (brackets and citation omitted).

24 ///

25 \_\_\_\_\_  
26 <sup>3</sup> NRCP 24 intervention has long been available to applicants in state-court mandamus proceedings.  
27 See, e.g., *Azbill v. Fisher*, 84 Nev. 414, 417, 442 P.2d 916, 917 (1968).

28 <sup>4</sup> *Lawler v. Ginocchio*, 94 Nev. 623, 626, 584 P.2d 667, 668–69 (1978) (per curiam) (recognizing that  
Nevada courts may look to the federal courts’ interpretations of parallel federal rules for guidance); accord  
*Am. Home Assurance Co. v. Eighth Jud. Dist. Ct.*, 122 Nev. 1229, 1238, 147 P.3d 1120, 1126 (2006); see also  
NRCP 24, advisory committee’s note to 2019 amendment (“The amendments conform Rule 24 to FRCP 24[.]”).

1           Additionally, NRCP 24(b)(2) allows government officers or agencies to intervene if  
2 an existing party's claim or defense is based on either "a statute or executive order  
3 administered by the officer or agency" or "any regulation, order, requirement, or agreement  
4 issued or made under the statute or executive order." NRCP 24(b)(2).<sup>5</sup> "In exercising its  
5 discretion, the court must consider whether the intervention will unduly delay or prejudice  
6 the adjudication of the original parties' rights." NRCP 24(b)(3).

### 7 **III. ARGUMENT**

#### 8 **A. The Secretary Satisfies All of NRCP 24(a)'s Requirements.**

##### 9 **1. The Motion is Timely.**

10           First, the Secretary's Motion is timely under NRCP 24(a). Petitioners filed their  
11 Petition on September 20, 2024. This Motion follows just six days later, before any  
12 substantive activity has occurred in the case, and after the Secretary attempted to confer  
13 with Petitioners, *see* FJDCR 3.7(b), and notified them by email of his intention to intervene.  
14 This Motion's timing thus presents no delay or risk of prejudice to the existing parties,  
15 especially when compared to prejudice the Secretary would face if denied intervention.<sup>6</sup>

##### 16 **2. Secretary Aguilar Has Significantly Protectable Interests That** 17 **May Be Impaired by This Action.**

18           The Secretary also satisfies the next two requirements warranting rightful  
19 intervention under NRCP 24(a)(2) because he (1) has significantly protectable interests in  
20 this action (2) that may be impaired by this action. In Nevada, a "significantly protectable  
21 interest" is "one that is protected under law and bears a relationship to the plaintiff's  
22 claims." *Am. Home Assurance Co.*, 122 Nev. at 1239, 147 P.3d at 1127 (quoting *S. Cal.*  
23 *Edison Co. v. Lynch*, 307 F.3d 794, 803 (9th Cir. 2002)). If a proposed intervenor "would be  
24 substantially affected in a practical sense by the determination made in an action, he

25 <sup>5</sup> *See* NRCP 24(b)(2), advisory committee's note to 2019 amendment ("The [2019] amendments  
26 conform [NRCP] 24 to FRCP 24, including the addition of [NRCP] 24(b)(2), which was not in the former  
27 Nevada rule. Intervention by government agencies under the specified conditions should enable the relevant  
28 issues to be resolved in a single action."); *cf.* Fed. R. Civ. P. 24(b)(2).

<sup>6</sup> *See Am. Home Assurance Co.*, 122 Nev. at 1244, 147 P.3d at 1130; *Lawler*, 94 Nev. at 626, 584 P.2d  
at 669; *see also W. Expl. LLC v. U.S. Dep't of Interior*, Case No. 3:15-cv-00491-MMD-VPC, 2016 WL 355122,  
at \*2 (D. Nev. Jan. 28, 2016).

1 should, as a general rule, be entitled to intervene.” *Sw. Ctr. Biological Diversity v. Berg*,  
2 268 F.3d 810, 822 (9th Cir. 2001) (citation and quotation marks omitted). “Once an  
3 applicant has established a significantly protectable interest in an action, courts regularly  
4 find that disposition of the case may, as a practical matter, impair an applicant’s ability to  
5 protect that interest.” *Venetian Casino Resort, LLC v. Enwave Las Vegas, LLC*, Case No.  
6 2:19-cv-1197-JCM-DJA, 2020 WL 1539691, at \*3 (D. Nev. Jan. 7, 2020) (citing *California*  
7 *ex rel. Lockyer v. United States*, 450 F.3d 436, 442 (9th Cir. 2006)).

8 Secretary Aguilar has significantly protectable interests in this lawsuit’s subject  
9 matter through his clear duty to “uphold Nevada’s Constitution, execute and enforce  
10 Nevada’s election statutes, and administer Nevada’s election process.” *Miller*, 124 Nev. at  
11 588, 188 P.3d at 1118 (citations omitted); *see also generally* Nev. Const. art. II, §1A (voters’  
12 bill of rights). Relevant here, the Secretary “must obtain and maintain *consistency* in the  
13 application, operation, and interpretation of election laws.” *Heller*, 120 Nev. at 461, 93 P.3d  
14 at 750 (citing NRS 293.247) (emphasis added). In practical terms, Petitioners are deploying  
15 an uneven litigation strategy targeting voter rolls in several Nevada counties, across three  
16 district courts, with the potential for inconsistent decisions.<sup>7</sup>

17 The Secretary has at least three compelling interests in voter registration list  
18 procedures that Petitioners threaten to impair with this action. First, the Secretary must  
19 ensure that, for purposes of maintaining voter rolls, all county clerks handle third-party  
20 written challenges consistently and in accordance with NRS 293.530, NRS 293.535, and  
21 the NVRA. Petitioners will practically impair this interest—*i.e.*, lawful and consistent  
22 voter roll maintenance *statewide*—by compelling individual county officials to “notify each  
23 registrant subject to the challenges . . . pursuant to NRS 293.530.” Pet. ¶ 36. Petitioners  
24 ask the Court to force Respondents to misinterpret and violate NRS 293.535 by “processing”  
25 Petitioners’ written challenges and potentially purging voters based on inadequate  
26 challenges.

---

27 <sup>7</sup> *See, e.g., Citizen Outreach Found. et al. v. Burgess*, Case No. CV24-02182 (Second Jud. Dist. Ct.,  
28 filed Sept. 23, 2024) (virtually identical lawsuit), *Citizen Outreach Found. et al. v. Portillo*, Case No. A-24-  
902351-W (Eighth Jud. Dist. Ct., filed Sept. 23, 2024) (same).



1        Second, the Secretary has a significantly protectable interest in ensuring uniform  
2 compliance with the statutory written-challenge process set forth in NRS 293.535. This  
3 lawsuit could torpedo any hope of orderly, objective, and nondiscriminatory resolution of  
4 written challenges to voter registrations. Instead of following these procedures, Petitioners  
5 aim to short-circuit these statutes and sow distrust toward Nevada’s elections. Moreover,  
6 if Petitioners prevail, a dangerous precedent may emerge in which county clerks are  
7 pressured to entertain challenges to active registered voters based on insufficient  
8 information.

9        Third, the Secretary oversees Nevada’s statewide voter registration database, *see*  
10 NRS 293.675, and compliance with federal election laws, *see, e.g.*, 52 U.S.C. §§ 20507,  
11 20509. The Secretary must ensure state and local compliance with the federal  
12 requirements of the NVRA, which sharply limits a state’s ability to remove voters from its  
13 rolls—especially now, with just over 40 days before an election.<sup>8</sup> This action may  
14 practically impair this interest in at least two ways. First, if Petitioners prevail, Nevada’s  
15 voter roll maintenance program may violate the NVRA by either (i) removing voters from  
16 voter rolls during the statutory 90-day “blackout” period preceding federal elections,<sup>9</sup> or (ii)  
17 removing voters in discriminatory or otherwise non-uniform ways.<sup>10</sup> This action also may  
18 disrupt the productive working relationships fostered between the Secretary and county  
19 clerks to lawfully administer Nevada’s elections, as outlined in NRS 293.675.

20        Notably, the Secretary recently has been found to have significantly protectable  
21 interests warranting intervention as of right in a case challenging the maintenance of voter  
22 registration lists. Ex. 2, Order Granting Mot. to Intervene at 5–6, *Kraus v. Burgess*, Case  
23 No. CV24-01051 (2nd Jud. Dist. Ct. Nev. June 25, 2024). This case is no different.

24 ///

25 ///

26 ///

27        <sup>8</sup> *See, e.g.*, 52 U.S.C. §§ 20507(a)(3)-(4), (b)(1)-(2), (c)(2)(A).

28        <sup>9</sup> *See id.* § 20507(c)(2)(A).

<sup>10</sup> *See id.* §§ 20507(b)(1)-(2).

1                   **3. Respondents Do Not Adequately Represent the Secretary's**  
2                   **Interests.**

3                   Lastly, the Secretary's rightful intervention is warranted because he cannot rely on  
4 the existing parties to adequately represent his interests. "[T]he burden on proposed  
5 intervenors in showing inadequate representation is minimal, and would be satisfied if  
6 they could demonstrate that representation of their interests 'may be' inadequate."  
7 *Hairr v. First Jud. Dist. Ct.*, 132 Nev. 180, 185, 368 P.3d 1198, 1201 (2016) (citation  
8 omitted); accord *Am. Home. Assurance Co.*, 122 Nev. at 1241, 147 P.3d at 1128. The  
9 Secretary meets this "minimal" burden, thus warranting intervention under  
10 NRCP 24(a)(2).

11                   Secretary Aguilar and Respondents do not have the same ultimate objective in this  
12 litigation. "Adequate representation" does not simply exist when two government entities  
13 share overlapping administrative duties or even the same goals in a case. See *Hairr*, 132  
14 Nev. at 185–86, 368 P.3d at 1201–02.<sup>11</sup> The Secretary's interests are far broader in  
15 regulatory and geographic scope, and not "subsumed" within Respondents' objectives. *Id.*  
16 The Secretary administers Nevada's election processes, "execut[es] and enforc[es]"  
17 Nevada's election statutes "and all other provisions of state and federal law relating to  
18 elections in this State," and "adopt[s] regulations" giving effect to these laws. NRS 293.124.  
19 These duties include, for example, ensuring compliance with the NVRA, wherein each state  
20 must ensure that its general program to remove voters who have changed residence is  
21 "uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965," among  
22 other requirements. 52 U.S.C. §§ 20507(b)(1)-(2). Also, the Secretary must ensure  
23 "uniform, nondiscriminatory" application of NRS 293.535 and 293.530—Nevada's statutory  
24 means of achieving NVRA compliance statewide—an objective that Respondents need not  
25 consider to the same extent. And as explained above, the Secretary must ensure consistent  
26 interpretation and application of Nevada's election laws, including NRS 293.530, 293.535,

27                   <sup>11</sup> See also *Driftless Area Land Conservancy v. Huebsch*, 969 F.3d 742, 748 (7th Cir. 2020) (stating  
28 that if seeking the same outcome in a case is "all it takes to defeat intervention, then intervention as of right  
will almost always fail" because a party must necessarily intervene "on one side of the 'v.' or the other").

1 and 293.547. Because Respondents need only maintain voter rolls for their respective  
2 counties—practices that, if Petitioners prevail, would differ from other counties—their  
3 representation of the Secretary’s statewide executive interests would be inadequate.  
4 See Ex. 2, Order Granting Mot. to Intervene at 6–7, *Kraus* (finding that registrar of voters  
5 could not adequately represent the Secretary’s interests in case challenging voter roll  
6 maintenance).

7 **B. Alternatively, the Secretary Satisfies NRCP 24(b)’s Requirements.**

8 Courts also permit intervention by a governmental officer or agency in actions that  
9 involve statutes and regulations administered by that officer or agency. NRCP 24(b)(2).  
10 A government officer “administers” a statute or regulation when he “manages, directs, or  
11 supervises” the application of the law at issue.<sup>12</sup> As Nevada’s “Chief Officer of Elections,”  
12 NRS 293.124, the Secretary is a state executive official who may intervene as a  
13 governmental officer under NRCP 24(b)(2).<sup>13</sup> Here, Petitioners squarely ground their  
14 claims in Nevada election laws the Secretary must execute and enforce under NRS 293.124.  
15 Petitioners seek a declaratory judgment that “Respondents are in violation of NRS 293.535  
16 and NRS 293.530 [and NRS 293.675],” and “a writ of mandamus requiring Respondents to  
17 notify each registrant subject to the challenges that have been filed . . . pursuant to  
18 NRS 293.530” and 293.535. Pet. ¶¶ 36, 37, 42, 47; *id.* Prayer for Relief. Put simply,  
19 Petitioners’ lawsuit solely focuses on the application of election laws that the Secretary  
20 administers for NRCP 24(b)(2) purposes.<sup>14</sup> Thus, permissive intervention is alternatively  
21 warranted.

22 **IV. CONCLUSION**

23 For the above reasons, this Court should allow the Secretary to intervene as a matter  
24 of right under NRCP 24(a)(2) or permissively under NRCP 24(b)(2). If the Court grants

25 ///

26  
27 <sup>12</sup> *McHenry v. Comm’r Internal Revenue*, 677 F.3d 214, 220–21 (4th Cir. 2012); see also *Lopez v.*  
*Monterey Cnty.*, 525 U.S. 266, 278 (1999) (defining the verb “administer”).

28 <sup>13</sup> See generally NRS chapter 255; see also Nev. Const., art. V, §§ 19, 20, 22.

<sup>14</sup> See *Miller*, 124 Nev. at 588, 188 P.3d at 1118; *Heller*, 120 Nev. at 461, 93 P.3d at 750.

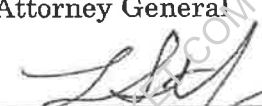
1 neither, the Secretary then requests leave “to submit briefs on determinative issues as  
2 amici curiae.” *Hairr*, 132 Nev. at 188, 368 P.3d at 1203.

3 **AFFIRMATION**

4 The undersigned does hereby affirm that the document entitled Motion to Intervene  
5 as Respondent does not contain personal information as defined in NRS 239B.030(4), and  
6 further acknowledges that an affirmation will only be provided on any additional  
7 documents if the document does contain personal information.

8 DATED this 26th day of September 2024.

9 AARON D. FORD  
10 Attorney General

11 By:   
12 LAENA ST-JULES (Bar No. 15156)  
13 Senior Deputy Attorney General  
14 DEVIN A. OLIVER (Bar No. 16773C)  
15 Deputy Attorney General  
16 *Attorneys for Proposed*  
17 *Intervenor-Respondent Secretary of State*

18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 26th day of September, 2024, I served a true and correct copy of the foregoing **MOTION TO INTERVENE AS RESPONDENT CERTIFICATE OF COUNSEL PURSUANT TO FJDCR 3.7(b)**, by electronic mail and by placing said document in the U.S. Mail, postage prepaid, addressed to:

David C. O'Mara  
THE O'MARA LAW FIRM, P.C.  
311 E. Liberty Street  
Reno, NV 89501  
[david@omaralaw.net](mailto:david@omaralaw.net)

*Attorneys for Petitioners*

Benjamin Johnson  
CARSON CITY DISTRICT ATTORNEY'S OFFICE  
885 E. Musser Street, Suite 2030  
Carson City, NV 89701  
[BJohnson@carson.org](mailto:BJohnson@carson.org)

*Attorneys for Carson City Clerk-Recorder*

Katherine F. Parks  
THORNDAL ARMSTRONG, PC  
6590 S. McCarran Blvd., Suite B  
Reno, NV 89509  
[KFP@thorndal.com](mailto:KFP@thorndal.com)

*Attorneys for Storey County Clerk*

  
AG Legal Secretary

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

### INDEX OF EXHIBITS

EXHIBIT No.	EXHIBIT DESCRIPTION	NUMBER OF PAGES
1.	Secretary of State's [Proposed] Answer to Petition for Writ of Mandamus	7
2.	Order Granting Motion to Intervene, <i>Kraus v. Burgess</i> , Case No. CV24-01051 (2nd Jud. Dist. Ct. Nev. June 25, 2024)	9

RETRIEVED FROM DEMOCRACYDOCKET.COM

# Exhibit 1

RETRIEVED FROM DEMOCRACYDOCKET.COM

# Exhibit 1

1 AARON D. FORD  
Attorney General  
2 LAENA ST-JULES (Bar No. 15156)  
Senior Deputy Attorney General  
3 DEVIN A. OLIVER (Bar No. 16773C)  
Deputy Attorney General  
4 State of Nevada  
Office of the Attorney General  
5 100 North Carson Street  
Carson City, Nevada 89701-4717  
6 T: (775) 684-1265  
(775) 684-1234  
7 E: [lstjules@ag.nv.gov](mailto:lstjules@ag.nv.gov)  
[doliver@ag.nv.gov](mailto:doliver@ag.nv.gov)

8 *Attorneys for Proposed Intervenor-Respondent*  
9 *Secretary of State*

10 **FIRST JUDICIAL DISTRICT COURT OF NEVADA**  
11 **CARSON CITY**

13 CITIZEN OUTREACH FOUNDATION,  
14 CHARLES MUTH, individually,

15 Petitioners,

16 vs.

17 SCOTT HOEN, in his official capacity as  
the Carson City Clerk, and JIM HINDLE,  
18 in his official capacity as the Storey  
County Clerk,

19 Respondents,

20 and

21 FRANCISCO V. AGUILAR, in his official  
22 capacity as Nevada Secretary of State,

23 Intervenor-Respondent.

Case No. 24 EW 00020 1B

Dept. No. I

24 **SECRETARY OF STATE'S [PROPOSED] ANSWER**  
25 **TO PETITION FOR WRIT OF MANDAMUS**

26 Proposed Intervenor-Respondent Francisco V. Aguilar, in his official capacity as  
27 Nevada Secretary of State ("Secretary"), by and through counsel, submits this Answer to  
28 Petition for Writ of Mandamus Pursuant to NRS 293.535 and NRS 293.530 for Respondents



1 to Notify the Registrant of the Challenge and Follow the Requirements of NRS 293.530  
2 (“Petition”) as follows.

3 **NATURE OF THE CASE**

4 1. The Secretary lacks knowledge and information sufficient to form a belief as  
5 to the truth of the allegations in Paragraph 1 and therefore denies them.

6 2. The Secretary lacks knowledge and information sufficient to form a belief as  
7 to the truth of the allegations in Paragraph 2 and therefore denies them.

8 3. Exhibit 1 speaks for itself. The Secretary admits the allegations in  
9 Paragraph 3, except denies that the memorandum was private.

10 4. The Secretary admits that Petitioners provided updates and correspondence  
11 with the Secretary relating to Petitioners’ voter registration challenges and that the  
12 memorandum was issued to Nevada’s County Clerks/Registrars. The Secretary lacks  
13 knowledge and information sufficient to form a belief as to the truth of the remaining  
14 allegations of Paragraph 4 and therefore denies them.

15 5. The Secretary denies that the memorandum was secret. The Secretary lacks  
16 knowledge and information sufficient to form a belief as to the truth of the remaining  
17 allegations in Paragraph 5 and therefore denies them.

18 6. Exhibit 2 speaks for itself. The Secretary admits that Petitioners sent the  
19 letter attached as Exhibit 2 to the Secretary on September 9, 2024. The Secretary lacks  
20 knowledge and information sufficient to form a belief as to the truth of the remaining  
21 allegations in Paragraph 6 and therefore denies them.

22 7. Exhibit 3 speaks for itself. The Secretary admits that the Nevada Attorney  
23 General’s Office sent Petitioners the letter attached as Exhibit 3 on September 11, 2024  
24 and admits that the Secretary did not otherwise respond to Petitioners’ letter attached as  
25 Exhibit 2 as of the filing of the Petition.

26 8. Exhibit 4 speaks for itself. The Secretary lacks knowledge and information  
27 sufficient to form a belief as to the truth of the allegations in Paragraph 8 and therefore  
28 denies them.

1           9.     The Secretary lacks knowledge and information sufficient to form a belief as  
2 to the truth of the allegations in Paragraph 9 and therefore denies them.

3           10.    The Secretary lacks knowledge and information sufficient to form a belief as  
4 to the truth of the allegations in Paragraph 10 and therefore denies them.

5           11.    The Secretary lacks knowledge and information sufficient to form a belief as  
6 to the truth of the allegations in Paragraph 11 and therefore denies them.

7           12.    The Secretary lacks knowledge and information sufficient to form a belief as  
8 to the truth of the allegations in Paragraph 12 and therefore denies them.

9           13.    The Secretary lacks knowledge and information sufficient to form a belief as  
10 to the truth of the allegations in Paragraph 13 and therefore denies them.

#### 11                               PARTIES

12           14.    The Secretary lacks knowledge and information sufficient to form a belief as  
13 to the truth of the allegations in Paragraph 14 and therefore denies them.

14           15.    The Secretary lacks knowledge and information sufficient to form a belief as  
15 to the truth of the allegations in Paragraph 15 and therefore denies them.

16           16.    Paragraph 16 contains legal conclusions to which no response is required.  
17 To the extent a response is required, the Secretary denies the allegations in Paragraph 16.

18           17.    Admitted.

#### 19                               JURISDICTION AND VENUE

20           18.    Paragraph 18 contains legal conclusions to which no response is required.

21           19.    Admitted.

#### 22                               GENERAL FACTUAL ALLEGATIONS

23           The un-numbered allegation “Nevada Law Requires Respondent to Notify the  
24 Registrant upon receipt of an Affidavit” contains legal conclusions to which no response is  
25 required. To the extent a response is required, the Secretary denies that un-numbered  
26 allegation.

27     ///

28     ///

1           20. The Secretary admits that Paragraph 20 accurately quotes the excerpted  
2 portion of NRS 293.535, except the excerpted portion of NRS 293.535 does not have bolded  
3 or italicized words.

4           21. The Secretary admits that Paragraph 21 accurately quotes the excerpted  
5 portion of NRS 293.535, except the excerpted portion of NRS 293.535 does not have bolded  
6 or italicized words.

7           22. The Secretary admits that Paragraph 22 accurately quotes the excerpted  
8 portion of NRS 293.530.

9           23. The Secretary admits that Paragraph 23 accurately quotes the excerpted  
10 portion of NRS 293.530, except there should be a colon between "of" and "(1)".

11           24. The Secretary admits that Paragraph 24 accurately quotes the excerpted  
12 portion of NRS 293.530.

13           25. The Secretary admits that Paragraph 25 accurately quotes the excerpted  
14 portion of NRS 293.530, except the excerpted portion of NRS 293.530 does not have bolded  
15 or italicized words.

16           26. The Secretary admits that Paragraph 26 accurately quotes the excerpted  
17 portion of NRS 293.530.

18           27. The Secretary admits that Paragraph 27 accurately quotes NRS 293.5303.

19           28. Paragraph 28 contains legal conclusions to which no response is required.

#### 20   COUNT I

##### 21           **Writ of Mandamus for Violation of the NRS 293.535 and NRS 293.530**

22           29. The Secretary repeats and realleges and by reference incorporates the  
23 answers set forth in Paragraphs 1 through 28 as if fully set forth herein.

24           30. The Secretary lacks knowledge and information sufficient to form a belief as  
25 to the truth of the allegations in Paragraph 30 and therefore denies them.

26           31. The Secretary lacks knowledge and information sufficient to form a belief as  
27 to the truth of the allegations in Paragraph 31 and therefore denies them.

28   ///

1 32. The Secretary lacks knowledge and information sufficient to form a belief as  
2 to the truth of the allegations in Paragraph 32 and therefore denies them.

3 33. The Secretary lacks knowledge and information sufficient to form a belief as  
4 to the truth of the allegations in Paragraph 33 and therefore denies them.

5 34. The Secretary lacks knowledge and information sufficient to form a belief as  
6 to the truth of the allegations in Paragraph 34 and therefore denies them.

7 35. The Secretary lacks knowledge and information sufficient to form a belief as  
8 to the truth of the allegations in Paragraph 35 and therefore denies them.

9 36. Admitted.

10 37. Admitted.

11 **COUNT II**

12 **DECLARATORY RELIEF**

13 38. The Secretary repeats and realleges and by reference incorporates the  
14 answers set forth in Paragraphs 1 through 37 as if fully set forth herein.

15 39. The Secretary admits that Paragraph 39 accurately quotes the excerpted  
16 portion of NRS 30.040.

17 40. Paragraph 40 contains legal conclusions to which no response is required.  
18 To the extent a response is required, the Secretary denies the allegations in Paragraph 40.

19 41. Paragraph 41 contains legal conclusions to which no response is required.  
20 To the extent a response is required, the Secretary denies the allegations in Paragraph 41.

21 42. Paragraph 42 contains legal conclusions to which no response is required.  
22 To the extent a response is required, the Secretary denies the allegations in Paragraph 42,  
23 except admits that Paragraph 42 accurately quotes the excerpted portion of NRS 293.535.

24 **COUNT III**

25 **INJUNCTIVE RELIEF**

26 43. The Secretary repeats and realleges and by reference incorporates the  
27 answers set forth in Paragraphs 1 through 42 as if fully set forth herein.

28 ///

1 44. Paragraph 44 contains legal conclusions to which no response is required.  
2 To the extent a response is required, the Secretary denies the allegations in Paragraph 44.

3 45. Paragraph 45 contains legal conclusions to which no response is required.  
4 To the extent a response is required, the Secretary denies the allegations in Paragraph 45.

5 46. Paragraph 46 contains legal conclusions to which no response is required.  
6 To the extent a response is required, the Secretary denies the allegations in Paragraph 46.

7 47. Paragraph 47 contains legal conclusions to which no response is required.  
8 To the extent a response is required, the Secretary denies the allegations in Paragraph 47.

9 48. Paragraph 48 contains legal conclusions to which no response is required.  
10 To the extent a response is required, the Secretary denies the allegations in Paragraph 48.

11 49. The Secretary lacks knowledge and information sufficient to form a belief as  
12 to the truth of the allegations in Paragraph 49 and therefore denies them.

#### 13 GENERAL DENIAL

14 To the extent not expressly admitted herein, the Secretary of State denies every  
15 allegation in the Petition.

#### 16 AFFIRMATIVE DEFENSES

17 The Secretary asserts his affirmative defenses without assuming the burden of  
18 proving any fact, issue, or element of a cause of action where such burden properly belongs  
19 to Petitioners. Further, nothing stated herein is intended to or shall be construed as an  
20 admission that any particular issue or subject matter is relevant to the allegations in the  
21 Petition. The Secretary reserves the right to amend or supplement his affirmative defenses  
22 as additional facts concerning defenses become known.

23 Accordingly, the Secretary asserts the following affirmative defenses:

- 24 1. Petitioners lack standing to pursue their claims.
- 25 2. Petitioners' claims are barred by the doctrine of laches, and the remedies  
26 sought by Petitioners this close to an election would create uncertainty and  
27 confusion, and unconstitutionally interfere with the rights of voters.

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. Petitioners' claims are preempted or otherwise barred by the National Voter Registration Act of 1993 and/or the Help America Vote Act of 2002.
4. Petitioners fail to state a claim on which relief can be granted.
5. Petitioners fail to plead facts showing a clear legal right to the extraordinary remedy of mandamus.
6. Petitioners are not entitled to a writ of mandamus because they have an alternate, adequate legal remedy available to them.

**PRAYER FOR RELIEF**

WHEREFORE, the Secretary respectfully requests that this Court:

1. Deny that Petitioners are entitled to any relief;
2. Dismiss the Petition in its entirety, with prejudice;
3. Award reasonable costs and attorneys' fees; and
4. Grant such other and further relief as the Court may deem just and proper.

DATED this 26th day of September, 2024.

AARON D. FORD  
Attorney General

By:

\_\_\_\_\_  
LAENA ST-JULES (Bar No. 15156)  
Senior Deputy Attorney General  
DEVIN A. OLIVER (Bar No. 16773C)  
Deputy Attorney General

*Attorneys for Proposed  
Intervenor-Respondent Secretary of State*

# Exhibit 2

RETRIEVED FROM DEMOCRACYDOCKET.COM

# Exhibit 2

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IN THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE**

FREDERICK H. KRAUS; PUBLIC  
INTEREST LEGAL FOUNDATION.,

Case No. CV24-01051

Petitioner,

Department No.: 4

vs.

CARRIE-ANN BURGESS, in her official  
capacity as Washoe County Interim Registrar  
of Voters,

Respondent,

and

FRANCISCO V. AGUILAR, in his Official  
Capacity as NEVADA SECRETARY OF  
STATE,

Proposed Intervenor.

**ORDER GRANTING MOTION TO INTERVENE AS RESPONDENT**

On May 10, 2024, Petitioners FREDERICK H. KRAUS and PUBLIC INTEREST LEGAL FOUNDATION (collectively "KRAUS & PILF"), by and through their attorney David C. O'Mara, Esq. of the O'Mara Law Firm, P.C., filed a *Petition for Writ of Mandamus Pursuant to NRS 34.160 for Washoe County Registrar of Voters to Determine Whether Commercial Addresses on Voter Roll are Accurate as Required by NRS 293.530* ("Petition").

On June 17, 2024, Proposed Intervenor-Respondent Francisco V. Aguilar, in his official capacity as Nevada Secretary of State ("hereinafter SECRETARY AGUILAR"), by and through



1 his counsel Nevada Attorney General Aaron D. Ford, Senior Deputy Attorney General Laena St-  
2 Jules, and Deputy Attorney General Devin A. Oliver, filed a *Motion to Intervene as Respondent*  
3 (hereinafter “*SA MTI*”). On July 1, 2024, KRAUS & PILF filed a *Response in Opposition to*  
4 *Motion to Intervene as Respondent* (hereinafter “*Opp. to SA MTI*”). On July 8, 2024,  
5 SECRETARY AGUILAR filed a *Reply in Support of Motion to Intervene as Respondent*  
6 (hereinafter “*Reply*”).

7 In the *Petition*, KRAUS & PILF aver that they brought to CARRIE-ANN BURGESS’  
8 (“BURGESS”) attention evidence concerning whether 48 purported residential addresses listed  
9 on the Nevada statewide registration list are accurate, as these 48 addresses appear to be  
10 commercial buildings wherein nobody resides – allegedly violating NRS 293.486(1)<sup>1</sup>. *See*  
11 *generally Petition*. KRAUS & PILF seek the following relief: (1) “[f]or a writ of mandamus  
12 compelling [BURGESS] to investigate known commercial addresses listed as residences on the  
13 voter roll”, (2) “[d]eclaring that [BURGESS] is in violation of NRS 293.530 and 293.675.”, (3)  
14 “[f]or any necessary injunctive or declaratory remedies or relief”, (4) “[f]or an award of  
15 reasonable costs and attorneys’ fees”, and (5) “[a]ny additional relief this Court deems just,  
16 proper, and equitable.” *Id.* at 45–46.

17 In the *SA MTI*, SECRETARY AGUILAR submits that he satisfies all of NRCP 24(a)’s  
18 requirements for rightful intervention. *SA MTI* at 8.

19 First, SECRETARY AGUILAR contends that the *SA MTI* is timely – as the *SA MTI* was  
20 filed just a month after the filing of the *Petition*, before any substantive activity has occurred in  
21 the case, and after SECRETARY AGUILAR notified the parties by email of his intention to  
22 intervene. *Id.*

23 Second, SECRETARY AGUILAR contends that, as Nevada’s Chief Elections Officer, he  
24 has a significantly protectable interest that may be impaired by the instant matter. *Id.* at 9.  
25 Specifically, SECRETARY AGUILAR lists three compelling interests in voter registration list  
26 procedures that he contends KRAUS & PILF threaten to impair with this action. *Id.* at 10. The

27 <sup>1</sup> NRS 293.486(1) states the following: “[e]xcept as otherwise provided in subsection 2, for the purposes of  
28 preregistering or registering to vote, the address at which the person actually resides is the street address assigned to  
the location at which the person actually resides.”

1 first interest SECRETARY AGUILAR lists is as follows: “the Secretary must ensure that, for  
2 purposes of maintaining voter rolls, all county clerks handle external, third-party information  
3 consistently and in accordance with NRS 293.530 and the NVRA.” Id. The second interest  
4 SECRETARY AGUILAR lists is as follows: “the Secretary has a significantly protectable  
5 interest in ensuring uniform compliance with the statutory written-challenge processes set forth  
6 in NRS 293.535 and NRS 293.547.” Id. The third interest SECRETARY AGUILAR lists is as  
7 follows: “the Secretary oversees Nevada’s statewide voter preregistration and registration  
8 database. . . . and compliance with federal election laws”. Id. As to impairment, SECRETARY  
9 AGUILAR argues that KRAUS & PILF succeeding on the *Petition* will impair his interests in  
10 the following two ways:

11 [f]irst, if Petitioners prevail, Nevada’s voter roll maintenance program would  
12 likely violate the NVRA by either (i) removing voters from voter rolls during the  
13 statutory 90-day “blackout” period preceding federal elections, or (ii) removing  
14 voters in discriminatory or non-uniform ways. This action also may disrupt the  
productive working relationships fostered between the Secretary and county  
clerks to lawfully administer Nevada’s elections. Id. at 11.

15 Third, SECRETARY AGUILAR submits that BURGESS does not adequately represent  
16 his interests. Id. To this point, SECRETARY AGUILAR submits that he and BURGESS do not  
17 have the same ultimate objectives in litigation because his obligations are far broader in scope,  
18 both in terms of geography and substance. Id.

19 In opposition, KRAUS & PILF argue that SECRETARY AGUILAR has no  
20 “significantly protectable interest” in maintaining inaccurate voter rolls. *Opp. to SA MTI* at 2.  
21 KRAUS & PILF contend that SECRETARY AGUILAR does not have a significantly  
22 protectable interest in in maintaining “a potentially malignant status quos”. Id.

23 Next, KRAUS & PILF argue that SECRETARY AGUILAR has made a baseless  
24 assumption in his claim that BURGESS does not adequately represent his interests as an answer  
25 has yet to be filed; therefore, SECRETARY AGUILAR cannot know whether BURGESS will  
26 adequately represent his interests. Id. at 3 – 4.

27 In reply, SECRETARY AGUILAR reiterates that he satisfies all of NRCP 24(a)’s  
28 requirements for rightful intervention. *See generally Reply.*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

NRCP 24 (a) states the following:

Intervention of Right. On timely motion, the court must permit anyone to intervene who:

- (1) is given an unconditional right to intervene by a state or federal statute; or
- (2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

To intervene under NRCP 24(a)(2), an applicant must meet the following four requirements:

- (1) that it has a sufficient interest in the litigation's subject matter, (2) that it could suffer an impairment of its ability to protect that interest if it does not intervene, (3) that its interest is not adequately represented by existing parties, and (4) that its application is timely. Determining whether an applicant has met these four requirements is within the district court's discretion. Am. Home Assur. Co. v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark, 122 Nev. 1229, 1238 (2006).

"[I]n evaluating whether Rule 24(a)(2)'s requirements are met, we normally follow practical and equitable considerations and construe the Rule broadly in favor of proposed intervenors. . . . We do so because a liberal policy in favor of intervention serves both efficient resolution of issues and broadened access to the courts." Wilderness Soc. v. U.S. Forest Serv., 630 F.3d 1173, 1179 (9th Cir. 2011).<sup>2</sup>

First, the Court will assess if SECRETARY AGUILAR has a sufficient interest in the litigation's subject matter.

"An applicant for intervention has a significantly protectable interest if the interest is protected by law and there is a relationship between the legally protected interest and the plaintiff's claims." United States v. Alisal Water Corp., 370 F.3d 915, 919 (9th Cir. 2004). "A significantly protectable interest has been described. . . . as one that is protected under the law and bears a relationship to the plaintiff's claims." Am. Home Assur. Co., 122 Nev at 1239 (internal quotations omitted). "The 'interest test' is not a clear-cut or bright-line rule, because no specific legal or equitable interest need be established." S. California Edison Co. v. Lynch, 307

<sup>2</sup> "Federal cases interpreting the Federal Rules of Civil Procedure are strong persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts." Exec. Mgmt., Ltd. v. Ticor Title Ins. Co., 118 Nev. 46, 53 (2002) (internal quotations omitted).

1 F.3d 794, 803 (9th Cir.) (internal citations omitted). “Instead, the ‘interest’ test directs courts to  
2 make a practical, threshold inquiry, and is primarily a practical guide to disposing of lawsuits by  
3 involving as many apparently concerned persons as is compatible with efficiency and due  
4 process.” *Id.* (internal citations and quotations omitted).

5 The Court notes that SECRETARY AGUILAR is “the Chief Officer of Elections for this  
6 State”, and as the Chief Officer of Elections in the State of Nevada, SECRETARY AGUILAR  
7 “is responsible for the execution and enforcement of the provisions of title 24 of NRS and all  
8 other provisions of state and federal law relating to elections in this State.” NRS 293.124. In  
9 other words, SECRETARY AGUILAR is specifically “mandated to, among other things, uphold  
10 Nevada’s Constitution, execute and enforce Nevada’s election statutes, and administer Nevada’s  
11 election process.” *Miller v. Burk*, 124 Nev. 579, 588 (2008).

12 Here, the instant matter is directly concerned with the execution of Nevada’s election  
13 laws – specifically NRS 293.486(1), NRS 293.530 and NRS 293.675. Regarding KRAUS &  
14 PILF’s requests, SECRETARY AGUILAR contends that KRAUS & PILF are seeking to  
15 improperly apply Nevada’s election laws. As the Chief Officer of Elections in the State of  
16 Nevada, SECRETARY AGUILAR “must obtain and maintain consistency in the application,  
17 operation and interpretation of election laws.” *Heller v. Legislature of State of Nev.*, 120 Nev.  
18 456, 461 (2004). The Chief Officer of Elections in the State of Nevada clearly maintains a duty  
19 to ensure that Nevada’s election laws are not being improperly applied. Assuming *arguendo* that  
20 KRAUS & PILF are seeking to improperly apply Nevada’s election laws, SECRETARY  
21 AGUILAR has a duty to ensure that KRAUS & PILF are precluded from doing so.

22 Moreover, the Court notes SECRETARY AGUILAR is legally mandated to “establish  
23 and maintain a centralized, top-down database that collects and stores information related to the  
24 preregistration of persons and the registration of electors from all the counties in this State.” NRS  
25 293.675(1). The Court further notes that SECRETARY AGUILAR “shall use the voter  
26 registration information collected in the database. . . . to create the official statewide voter  
27 registration list. . . . in consultation with each county and city clerk.” NRS 293.675(2). Here, the  
28 logical conclusion of KRAUS & PILF’s argument is that the aforementioned voter-registration

1 database is currently incorrect – as to the 48 subject commercial addresses. As such, this matter  
2 inherently touches upon SECRETARY AGUILAR’s duty to “establish and maintain a  
3 centralized, top-down [voter] database.” NRS 293.675(1).

4 In light of the foregoing considerations, the Court finds that SECRETARY AGUILAR  
5 maintains a “significantly protectable interest [as his] interest is protected by law and there is a  
6 relationship between the legally protected interest and the [petitioner’s] claims.” Alisal Water  
7 Corp., 370 F.3d at 919.

8 Second, the Court will assess if SECRETARY AGUILAR could suffer an impairment of  
9 his ability to protect his interest if he does not intervene.

10 A proposed intervenor meets the impairment requirement when a pending matter would  
11 control the issues in which a proposed intervenor holds an interest. See American Home Ins., 122  
12 Nev. at 1240–41, 1241 n. 40.

13 Adopting the reasoning set forth above, the Court finds that SECRETARY AGUILAR  
14 could suffer an impairment of his ability to protect his interest if he does not intervene.<sup>3</sup>

15 Third, the Court will assess if BURGESS adequately represents SECRETARY  
16 AGUILAR’s interests.

17 “The most important factor in determining the adequacy of representation is how the  
18 interest compares with the interests of existing parties. . . . When an applicant for intervention  
19 and an existing party have the same ultimate objective, a presumption of adequacy of  
20 representation arises.” Arakaki v. Cayetano, 324 F.3d 1078, 1086 (9th Cir. 2003), as amended  
21 (May 13, 2003). While a proposed intervenor’s burden to prove the inadequacy of representation  
22 is minimal, a proposed intervenor must be able to show that its interest is not the same as the  
23 existing party or subsumed within the existing party’s objectives. See Am. Home Assur. Co., 122  
24 Nev. at 1241 (“Although the applicant insurer’s burden to prove this requirement has been  
25 described as “minimal,” when the insurer’s interest or ultimate objective in the litigation is the

26 <sup>3</sup>The Court notes that, as a practical matter, once an applicant has established a significantly protectable interest in a  
27 matter, courts generally find that disposition of the matter may impair an applicant’s ability to protect that interest.  
28 See California ex rel. Lockyer v. United States, 450 F.3d 436, 442 (9th Cir. 2006) (“Having found that appellants  
have a significant protectable interest, we have little difficulty concluding that the disposition of this case may, as a  
practical matter, affect it.”)

1 same as the injured worker's interest or subsumed within the worker's objective, the injured  
2 worker's representation should generally be adequate, unless the insurer demonstrates  
3 otherwise.”).

4 As discussed above, SECRETARY AGUILAR maintains broad duties in maintaining and  
5 enforcing Nevada’s election laws. These duties are far broader than and more-inclusive than  
6 BURGESS’ duties. SECRETARY AGUILAR duties span election processes throughout the  
7 entirety of the State of Nevada. BURGESS duties are confined to election processes within  
8 Washoe County. Simply put, BURGESS cannot adequately represent SECRETARY  
9 AGUILAR’s interests, as her interests are not nearly as broad and inclusive as SECRETARY  
10 AGUILAR’s interests are.<sup>4</sup>

11 In light of the foregoing considerations, the Court finds that BURGESS cannot  
12 adequately represents SECRETARY AGUILAR’s interests.

13 Fourth, the Court will assess if the *SA MTI* is timely.

14 “Determining whether an application is timely under NRCP 24 involves examining the  
15 extent of prejudice to the rights of existing parties resulting from the delay”. *Id.* at 1244.

16 The Court notes that KRAUS & PILF submitted their *Petition* on May 10, 2024.  
17 SECRETARY AGUILAR submitted the *SA MTI* on June 17, 2024. In total, 38 days passed  
18 between the filing of the *Petition* and the *SA MTI*. Moreover, the Court highlights SECRETARY  
19 AGUILAR averred that he notified the parties by email of his intention to intervene. Lastly, the  
20 Court highlights that at the time of the filing of the *SA MTI*, no substantive activity had yet to  
21 occur in the instant matter. Accordingly, the Court finds that SECRETARY AGUILAR moved  
22 in a prompt manner in the filing of the *SA MTI*. Due to such prompt action, the Court finds that  
23 there has been no serious delay in the instant matter.

24 In light of the foregoing considerations, the Court finds that the *SA MTI* is timely.

25 Overall, the Court finds that SECRETARY AGUILAR meets the four requirements for

26  
27 <sup>4</sup> The Court notes that at the time of this writing, BURGESS has yet to file an answer in the instant matter –  
28 although she has filed a NRCP 12(b)(5) Motion to Dismiss. Therefore, the Court cannot be certain as to scope and  
magnitude of the defense BURGESS will employ. Regardless, as demonstrated above, BURGESS simply cannot  
adequately represent the interests of SECRETARY AGUILAR.

1 intervention as a matter of right – under NRCP 24(a)(2). As such, the Court finds that  
2 SECRETARY AGUILAR may intervene as a matter of right.<sup>5</sup>

3 Based on the foregoing and good cause appearing,

4 IT IS HEREBY ORDERED that SECRETARY AGUILAR's *Motion to Intervene as*  
5 *Respondent* is **GRANTED**.

6 DATED this 25 day of July, 2024.

7  
8   
9 DISTRICT JUDGE

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

RETRIEVED FROM DEMOCRACYDOCKET.COM

<sup>5</sup> The Court notes that SECRETARY AGUILAR also argues that he satisfies NRCP 24(b)'s requirements for permissive intervention. However, given that this Court finds intervention as a matter of right appropriate, the Court will not analyze SECRETARY AGUILAR's argument regarding whether SECRETARY AGUILAR meets the requirements for permissive intervention.

CERTIFICATE OF SERVICE

CASE NO. CV24-01051

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 25 day of July 2024, I electronically filed the **ORDER GRANTING MOTION TO INTERVENE AS RESPONDENT** with the Clerk of the Court by using the ECF system.

I further certify that I transmitted a true and correct copy of the foregoing document by the method(s) noted below:

**Personal delivery to the following: [NONE]**

**Electronically filed with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:**

DAVID C. O'MARA, ESQ. for PUBLIC INTEREST LEGAL FOUNDATION, FREDERICK H KRAUS

ELIZABETH HICKMAN, ESQ. for CARRIE-ANN BURGESS

**Transmitted document to the Second Judicial District Court mailing system in a sealed envelope for postage and mailing by Washoe County using the United States Postal Service in Reno, Nevada:**

Laena St. Jules, Esq.  
Devin Oliver, Esq.  
Office of the Attorney General  
100 North Carson St.  
Carson City, NV 89701

